

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

PUBLIC INTEREST LITIGATION NO.164 OF 2004

The Secretary,)
All India Biodynamic and Organic)
Farming Association.)...Petitioner.

Vs.

The Principal Secretary to the)
Government of Maharashtra & Ors.)...Respondents.

....

Mr. S.P. Anand, Petitioner appearing in person.
Mr. Ravi Kadam, Advocate General, with Mr. A.A. Kumbhakoni,
Associate Advocate General, for the State.

CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

DATE: May 05 , 2006.

JUDGMENT (Per Dr. D.Y. Chandrachud, J.) :

The genesis of these proceedings is an alarming occurrence of suicides by cultivators in diverse parts of the State of Maharashtra. All India Bio Dynamic and Organic Farming Association addressed a letter to the Chief Justice expressing serious concern over suicides by farmers in the District of Jalna. The Tata Institute of Social Sciences (TISS) was impleaded as a party to these proceedings and was requested, to submit comprehensive report dealing with the causes of

suicide by farmers in the State. The State Government and the Union Ministry of Agriculture were called upon to respond to the serious issues which are raised in these proceedings.

2. On 11th January 2005, the Chief Secretary to the State Government stated before the Court on affidavit that between 1st January 2004 and 31st December 2004, there were reports of 294 cases of suicide by farmers. Of them, the largest number – 109, was from Yavatmal, followed by 39 in Buldhana, 37 in Washim and 35 in Amravati. The State Government informed the Court that as and when such cases are brought to the notice of Divisional Commissioners, an enquiry is carried out by Tahsildars or by Sub Divisional Officers to ascertain the causes for suicide: if it is established that the indebtedness of the farmer either through formal or informal sources is one of the primary factors of suicide, the case is treated as one of suicide related to agricultural indebtedness. The Government stated that it has no formal scheme for providing assistance to families of farmers who have committed suicide, but assistance to the extent of Rs.1 lakh is provided on a discretionary basis through the Chief Minister's Relief Fund. The criterion that is applied is that agricultural indebtedness should be

established as the cause for suicide. 71 out of 294 cases were accordingly reported to have been found eligible for assistance from the Chief Minister's Relief Fund. In November 2004, the State Government commissioned the services of the Indira Gandhi Institute for Development Research, Mumbai, to conduct a study on the problem in Maharashtra. The efforts which were being undertaken to promote the interest of the agricultural sector were stated to be as follows :

“The State Government and the Government of India are, continuously, concentrating their efforts in the direction of making available good quality inputs like seeds, fertilisers, pesticides, promoting organic farming, making available timely and adequate credit, power availability and methods of optimising existing irrigation facilities by way of sprinklers, drip irrigation and other water conservation activities followed by regular agricultural research and extension activities.”

The State Government informed the Court that it has taken a decision to remit interest on crop loans of farmers who had availed of loans during Rabi 2003 and Kharif 2004 to the extent of Rs.570 crores. Farmers who had suffered losses exceeding 50% during Kharif 2004 in Vidarbha and Marathwada regions had been granted compensation to the extent of approximately Rs.84 crores.

3. By an order dated 12th January 2005, the District Judges of Beed, Jalna and Parbhani were directed to submit report before the Court. The reports submitted by the District Judges as well as the report of the Tata Institute of Social Sciences were considered by the Court on 16th February 2005. Prakash Gopalrao Pohare filed an application for intervention with a list containing information relating to farmers who had committed suicide in the State. The list showed that from 1st March 2001 to January 2005, 371 farmers had committed suicide. The State Government was directed to reinvestigate the matter and to submit its report. A further affidavit was filed by the Chief Secretary on 10th March 2005 informing the Court that the list submitted by the intervenor together with the reports of the District Judges had been forwarded to the Commissioners in the concerned Divisions for verification. Government stated that in the Aurangabad, Amravati, Pune, Nagpur and Nashik Divisions, 64 suicides had been reported in 2001, 131 in 2002, 180 in 2003 and 524 in 2004. For the year 2004 the number of deaths by suicide was revised upwards from 294 as originally reported to 524. Government stated that the Divisional Commissioners had recommended assistance to 17 families over and above the 71

families which had been referred to earlier. The investigation by the Government in respect of 524 cases was stated to be in progress and the Court was informed that Government would expedite the finalisation of the enquiry in all matters and provide assistance to eligible families. 16 cases were pending with the Chief Minister's Relief Fund office for awarding assistance and 125 cases were pending further enquiry. On 20th July 2005, this Court directed that enquiries in 125 cases which were in progress must be conducted on priority and be concluded as expeditiously as possible. In a further affidavit dated 29th September 2005, the Chief Secretary stated that since the filing of the earlier affidavit, 16 additional families had been given financial assistance. The investigation in 125 cases was completed and of them, 21 families who were found to be eligible had been granted financial assistance. The remaining 104 cases were not found to be eligible for assistance. In a further affidavit of 6th December 2005, this Court was informed that investigation into 524 cases of suicide for the year 2004 had been completed and of them, 109 cases have been found eligible for financial assistance from the Chief Minister's Relief Fund. The remaining 415 cases had not been found to be eligible since the cause of suicide was reported to be other than agricultural indebtedness, pressure to repay

loans and crop failure. The reasons for ineligibility were stated to be as follows :

Reasons of ineligibility

No loan from formal institutional sources	Does not own land in his/his family's name	Family Problems & conflicts	Addiction to alcohol	Illness	Accidental Death	Unemployment	Others	Total
73	27	157	34	49	10	1	64	415

Government stated that of the 12 cases which had been mentioned in the affidavit of the Intervenor of 24th June 2005, 6 cases were found to be eligible to whom Rs.1 lakh each had been provided, whereas 6 cases had not been found to be eligible.

4. On 18th January 2006, the State produced enquiry papers probing into the reasons for suicides by six farmers. A concession was made on behalf of the State that the conclusion in the investigation that a particular farmer – Hiranman Bhau Patil had committed suicide as he was depressed on the death of his wife was not correct. The State in

fact, conceded that as a matter of fact, the wife of that farmer had died nearly 15 years before the farmer committed suicide. Accordingly the AGP stated that the legal heirs of the farmer would be paid compensation since they were eligible. This Court was informed that the legal heirs of 109 farmers who had committed suicide had been found eligible to receive compensation out of a total of 524 cases. Government was directed to file an affidavit setting out the details of the remaining 415 ineligible cases, explaining the grounds of ineligibility.

5. The State has now filed an affidavit on 1st March 2006 of its Deputy Secretary in the Revenue and Forests (Relief & Rehabilitation) Department in which it has been stated that in relation to 414 cases, information has been analyzed for submission to the Court. However, it has been submitted that in view of an important policy change that has taken place upon the issuance of the directions by this Court on 18th January 2006, it may not be necessary for the Court to proceed on a case to case basis. The State Government has informed the Court that initially cases of financial assistance were being dealt with through the Chief Minister's Relief Fund which was discretionary. The State

Government has now taken a policy decision to render assistance not from the Chief Minister's Relief Fund, but from the Social Security and Welfare Fund which is a regular budgetary head. The State Government is stated to have made sufficient funds available under this budgetary head at the disposal of all Collectors.

6. On 23rd January 2006, a policy decision has been taken by the State Government to constitute a separate and independent Committee for each District with the Collector as its head. The Committee is to consist of (i) A representative of agriculturists; (ii) A representative of Non-governmental organizations; (iii) The Chief Executive Officer, of the Zilla Parishad; (iv) the Superintendent of Police; and (v) the Superintending Agricultural Officer. All cases relating to suicide by farmers are to be considered at the District level by the Committee constituted for each District and the disbursement of assistance is to be made strictly by the Committee from the funds available at its disposal. Each of the Committees has been directed to decide every case in 15 days of the occurrence of the incident. The State Government has further submitted that initially assistance was being rendered in only those cases which satisfied a triple test namely;

(i) The deceased farmer should be an agriculturist; (ii) The deceased farmer should have been indebted to a financial institution that had disbursed a loan to him; and (iii) There should have been pressure for the recovery or repayment of a loan at the behest of the creditor. On 27th February 2006, the State Government has taken a policy decision to broaden the criteria for rendering financial assistance to families of those farmers who have committed suicide. Under the new criteria, the deceased farmer is to be presumed to be an agriculturist if any member of the family holds agricultural land. All such cases will be considered to be eligible where the loan has been obtained by any member of the family of the deceased farmer from a Nationalized Bank, a Co-operative Bank, Co-operative Credit Society or licensed money-lender and where on account of non-payment of loan installments, there are outstanding overdues. Accordingly, a Government Resolution has been issued on 27th February 2006. The State Government has decided to reconsider all such cases of suicide where the occurrence has taken place on or after 1st January 2001. Government has agreed to reconsider all those cases as well where claimants upon enquiry had been found to be ineligible and assistance had been declined. This would include the 414 cases adverted to in the order dated 18th January 2006 of this Court.

7. In other words, the cumulative effect of the change of policy by the State Government is thus:

(i) The State Government has now constituted new Committees, which will operate at the District level. Cases shall be disposed of by each of these Committees which is headed by the District Collector and disbursement of financial assistance shall take place at the level of each Committee. The Committee shall take a final decision within fifteen days of the occurrence of the incident; (ii) The criteria for determining eligibility for the grant of financial assistance have been broadened; and (iii) Government has decided to reconsider all incidents of suicide by farmers for the grant of financial assistance where the occurrence had taken place on or after 1st January 2001. This would also include a reconsideration of 414 cases which were found earlier to be ineligible for assistance.

The TISS Report :

8. In this background, it is now necessary to set out the outcome

of the study undertaken by the Tata Institute of Social Sciences (TISS) in its final report submitted to this Court on 15th March 2005. The report is titled "Causes of Farmer Suicides in Maharashtra: An Enquiry". This Court must record its appreciation of the meticulous research and painstaking field work carried out by TISS and its researchers towards the actualization of a socially purposive project, which we will now proceed to analyze. TISS has carried out a pioneering study on the subject. The report notes that until December 2004, 644 suicides by farmers were reported with most of the deaths occurring in the Vidarbha, Marathwada and Khandesh regions of the State. The research team analyzed a sample of five percent, namely, 36 cases for the study. Detailed case studies, adopting a life history approach of all the families in these 36 cases were carried out. Focus group discussions were held.

9. The TISS report outlines the genesis of the agrarian crisis to which the emerging pattern of suicides by farmers can be traced. The agricultural sector accounts for 25% of total GDP. 75% of India's population lives in rural areas and in hilly terrains. Between 60% and 70% of GDP from agriculture is derived from subsistence agriculture.

Despite a 25% share in GDP, Indian agriculture accounts for a negligible 0.7% share in world imports and 0.6% in exports. Investment in agriculture has witnessed a serious trend. The report notes that while investment (at 1980-81) prices stood at Rs.1,266 crores in 1950-51 and rose to Rs.5,246 crores by 1978-79; it declined thereafter to Rs.4,692 crores in 1990-91. Agricultural investment came down from 22% in 1950-51 to 19% in 1980-81 and thereafter to 10% in 1990-91. This has adversely affected public sector investment in irrigation as more than 90% of the total public investment in agriculture goes into irrigation. Investment in rural development in India has reduced to 5.9% of the GDP in the 10th Plan. Added to this, are factors such as environmental degradation resulting from deforestation, depletion of water availability and a threat to bio-diversity.

10. The TISS report notes that of the 644 deaths reported till December 2004, the Amravati region accounted for 448, Aurangabad for 90, Nagpur 66 and Nashik, 38. The report furnishes a family profile of the 36 cases which were studied in detail. By way of illustration, we would advert to cases 1, 2, 11 and 15 which are as follows :

“Case 1 : A Scheduled Caste (SC) household where the

female head of household committed suicide. The household head was looking after all the agrarian operations and managing a landholding of 15 acres. The family purchased six acres of the land in the year 1969 by wealth earned through labour. The major crops were cotton, tur and jowar. The eldest son in the family is a vegetable vendor and the younger son has slight mental disability. The husband of the household head has been physically disabled for the last 15 years. The entire burden of the decision-making in the context of agrarian operations has fallen on the female household head alone. The family incurred a loan on account of crop and construction of well to the tune of Rs.27,000. This loan could not be repaid due to crop failure for three consecutive years. Hence, another loan was taken from private sources. The total cumulative loan from private sources amounted to Rs.33,000 at 5% interest per month. Even this loan could not be repaid and the cumulative loan and the interest amount multiplied. This increased the burden on the household head enormously. She committed suicide on 29.12.03. The government gave no compensation.

Case 2 : The farmer was a male head of an SC household. This household had received two acres of land under the Ceiling Act and further hired three acres of land for cultivation. The husband and wife also undertook agricultural wage work apart from being cultivators. The major crop in the field was cotton, jowar and tur. The family incurred a loan Rs.25,000 at the rate of 10% per month in the last three to four years on account of agrarian operations. This loan was from private sources, as the formal credit for the family seemed to have dried up. The crops failed in both the owned as well as in the leased land. This resulted in an increase in the drinking habits of the farmer. The input cost could not be recovered from the production. The

household head committed suicide on 11.08.03. Now the family has taken a decision to sell their pair of bullocks to repay part of the loan. They received Rs.600/- per month under the 'Sanjay Niradhar Yojana'. The government offered no compensation.

Case 11 : This family belongs to the denotified community. The total landholding of the family is six acres out of which one acre is irrigated. The farmer incurred an expenditure of Rs.40,000/- on the marriage of his daughter five years back. After that, due to repeated crop failures of the principal crops of tur, cotton and jowar, he further incurred a loan to the tune of Rs.35,000/- as term loan from a bank. He also had a crop loan that was a regular account. He had to sell off his gold, three buffaloes and utensils. The community opined that the cost of cultivation increased and the output reduced by 50%. He had two more daughters to be married. He committed suicide on 25.06.04. The family received a compensation of Rs.1 lakh from the CM's Relief Fund. It was also reported that a 10% bribe had to be paid to obtain bank loan.

Case 15 : This family belongs to a Backward Caste group. The total landholding is 4.5 acres. The major crops are cotton, jowar and tur. The family was cultivating as well as running a barber's business. One loan of Rs.13,000/- was taken 13 years ago and not paid. Recently another loan from a money lender was taken (Rs.40,000/-) at 5% interest per month. Due to the tensions of loan repayment resulting from crop failure, he had to sell his business. He committed suicide on 19.09.01. The moneylender is still after them and has manhandled the father of the deceased. The family received compensation of Rs.1 lakh from the CM's relief fund. The family is under tremendous pressure from the moneylenders to repay the sum from the compensation received by them.”

11. The study notes that (i) There is almost an even match between small landholders and the marginal and large landholders across caste groups; (ii) Of the total landholders, 50% belong to small landholdings, 43% to medium and 5% and 2% respectively to large and no landholding; (iii) Tribal groups are primarily small landholders; (iv) The overwhelming numbers are reflected in small and medium sized holdings. This is suggestive of a problem that is widespread cutting across caste and class barriers. Small sized landholding families in the married category have been affected the most in the case of a suicide of their household head. Of the sample, 19% are non-literate and the remaining 81%, literate. Within the non-literate group, 43% belong to the Scheduled Castes and 57% to the nomadic and denotified tribes. Out of the total sample, 18% were entirely dependent on agriculture with no back-up system. Of the remaining 82%, 70% are cultivators and agricultural labourers. This is demonstrative of the fact that the practice of cultivation is not enough to guarantee a livelihood. The educational profile of the victims suggests that most of them were educated, the comparatively high levels of literacy being due to the fact that almost all

the victims were males.

12. The TISS report identifies a fundamental problem, namely, of a substantial increase in the cost of cultivation as a result of higher input prices without a corresponding increase in the prices realised by farmers of agricultural produce. The report contains the following observations:

“There has been a substantial change in the composition of the input structure in the recent past. The cost of cultivation of most crops has increased due to higher input prices and increased density of purchased inputs, coupled with the high cost of labour. Therefore, demand for cash inputs has increased, thereby inflating the cost of production. Higher cost of production, in the absence of a corresponding increase in prices, affects the viability of farming. On the one hand, the cost of production increases due to increased input prices and at the same time market imperfections do not allow the farming household to generate sufficient profits to cover household expenses, exigencies and expenditure on social or family functions. This increases the stress on the farm family, the natural outcome of which is for farmers to approach moneylenders to meet their cash requirements.”

70% of the cultivators grew cotton as their primary cash crop. The cost of cultivation as a paid out cost is between Rs.2,500/- to Rs.3,000/- per acre. Another 5% of the cultivators took to horticulture as a major cash crop where the cost of cultivation is between Rs.18,000/- and

Rs.20,000/- per acre. The remaining 20% cultivated tur, urid, soyabean, jowar, vegetables and sugarcane. The first choice of cultivators is towards growing cash crops.

13. Minimum Support Prices are fixed and declared by the Ministry of Agriculture of the Government of India before the sowing season. The Joint Director in the Agriculture Price Cell has been quoted in the report as having stated that Minimum Support Prices have “not done full justice to the farmers of Maharashtra”. The report in that regard is to the following effect:

“Favourable/Unfavourable agro climatic situation among the State leading to variation in per hectare yield: The agro climatic situation varies from State to State. This leads to variation in per hectare yield. The per hectare yield in Maharashtra State is less in comparison with the yield of other States due to inadequate irrigation facilities and unfavourable agro climatic situations. This leads to more cost of production. However, due to favourable agro climatic situation and sufficient irrigation facilities, the per hectare yield in Haryana and Punjab is more. Therefore, the cost of production of these States is conducive for the State where a particular crop is grown on a large scale. This adversely affects States like Maharashtra who have unfavourable agro climatic situation and higher cost of production. The Minimum Support Prices declared by Government of India does not cover the cost of production of the agriculture producer to the full extent. Therefore, the Minimum Support Prices do not give full justice to the farmers of the State having high cost of production. Therefore, instead of declaring one Minimum

Support Price at the National Level, separate support prices may be declared for groups of States according to the cost of cultivation.”

The average gap in the minimum support price and the cost of cultivation per crop has been worked out over a period of eight years, for 1996-2004 and the difference which is given in a minus percentage is as follows :

“Paddy: -38%; Bajra: -48%; Groundnut: -32%;Tur: -40%; Cotton: -38%; Sunflower: -50%; Mug: -50%; Udid:-47%; Soybean: -37%; Sugarcane: -12%; Wheat: -47%; Gram: -47%; Safflower: -39%.”

Thus, according to the report, all crops are being cultivated at a loss to cultivators, which varies between 38% at the minimum and 50% at the maximum. The exception is sugarcane where the loss is minimised at 12%.

14. Faced with a situation where minimum support prices are not adequate to cover the cost of production, farmers are increasingly found to be indebted. The trend from Primary Agricultural Cooperative Institutions showed that almost 40% of the victims had not availed of loans from such institutions. Out of the remaining, 20% had availed of

loans upto Rs.10,000/-, and 25% had obtained loans between Rs.11,000/- and Rs.30,000/-. These were primarily farmers of the small and medium category. Out of total lending, the report notes, the private lending component is to the extent of 50%. Primary Agricultural Cooperatives are contributing to the extent of 21% while Commercial Banks and Land Development Banks contribute together to the extent of 18%. Thus, the largest offtake of credit is still being met through private sources. 20% of the sample received compensation from the Chief Minister's Relief Fund of Rs.1 lakh. Consequently, 80% of the families whose members had committed suicide had not received any compensation.

15. The report, therefore, concludes that (i) There is a general crisis of credit in the agrarian economy; (ii) This is reflected more in the medium and small landholdings where all the possible sources have been tapped; (iii) The crisis has pushed cultivators in the debt and death trap; and (iv) The resultant debt trap is due to an inadequate credit supply to cultivators at affordable prices and due to the rising costs of production that cannot be met. The report notes that causes of suicide have not been properly investigated and documented. Causes

of death which are cited in official documentation are superfluous and arbitrary. There has been a tendency to ignore suicides of the landless farmers.

16. On the basis of the report, the fundamental causes for suicide by cultivators in the State of Maharashtra can, therefore, be summarised as follows :

1. The major reason for suicides is the heavy indebtedness that the cultivators find themselves in today. This indebtedness is not an overnight phenomenon that occurred suddenly. It has its roots in the credit policy that has been followed over a number of years;
2. Indebtedness itself results from a mismatch in the cost of production and the support price and the market price that the cultivators receive at the end of every cropping cycle;
3. Field data suggests that there have been repeated crop failures in the last four years. These crop failures have resulted in a reduction in the productivity of the land due to a variety of reasons. These reasons could be due to the overuse of fertilisers, pesticides and reliance on HYV seeds and now to some extent on genetically modified seeds such as Bt. Cotton. Thus, crop failure becomes a cyclical phenomena and not a one-time occurrence;
4. Heavy indebtedness is spreading across landholding patterns. In that context, the small and the medium-sized cultivator is the most affected of the lot, though the large

landholder in the rain-fed areas of the state, too, is coming under strain;

5. In the context of availability of credit, field data suggests that even after 55 years of Independence, private money lending remains the single largest source of credit to small and marginal farmers. This is so because the banking sector is fast moving out of the credit delivery mechanism;
6. Cultivation in Maharashtra is primarily rain-fed. Thus, the subsidy given on fertilisers and pesticides, irrigation and electricity does not touch the small/ marginal and medium-sized landholder, as cultivation is deprived of an assured irrigation source. Thus, those who are cultivating cash crops that require irrigated water have to perforce rely on rainfall that is fickle at the best of times. This puts the system under tremendous stress. The cash crop becomes a kind of a compulsion, as subsistence farming alone does not provide for the need of liquid capital that the cultivator needs for survival. More and more, the small and marginal farmers are pushed into compulsory cash crop cultivation that is having a spiral effect in terms of the debt crisis;
7. The access to an information base that the cultivators have largely comes from the agents of fertiliser and seed companies. The government extension machinery is not visible in the sense that it could provide an objective database in information to cultivators;
8. The attitude of the government may be described as starkly apathetic. This is demonstrated by the fact that almost 80% of the victims have not received any kind of compensation from government; and

9. There is a total absence of any safety net for cultivators, especially the small and the medium ones.

The position of the Union of India :

17. The Union of India has filed an affidavit in reply in these proceedings of its Deputy Secretary in the Department of Agriculture and Cooperation. The affidavit fairly accepts the prevalence of farmer suicides in the States of Andhra Pradesh, Karnataka, Kerala and Maharashtra. The reasons for such occurrences are stated to be (i) crop losses; (ii) indebtedness; (iii) mono-cropping; (iv) non-remunerative prices; (v) increased cost of inputs; and (vi) lack of alternative employment opportunities etc. The affidavit accepts that easy and timely availability of institutional credit in a “hassle free” manner to farmers at a reduced rate of interest is the key ingredient for meeting their credit needs. In that regard, it has been submitted that the Central Government has instituted certain measures, including: (i) An increase in the flow of credit to the agricultural sector by 30% for the year 2005-06; (ii) Enhancement of the coverage of institutional credit through Kisan Credit Cards; and (iii) Restructuring of loans for providing credit related relief. It has been stated that Government of India has advised public

sector Banks to reduce their lending rates for agriculture to a single digit rate of not more than 9% per annum on crop loans upto a ceiling of Rs.50,000/-. At the same time, it has been stated, that under the interest rate policy of the Reserve Bank of India, interest rates on loans given by commercial banks have been deregulated, save and except that those on loans upto Rs.2 lakhs should not exceed the Benchmark Prime Lending Rate of the Bank concerned.

18. The affidavit filed by the Union of India deals with the provision of agricultural insurance and notes that a National Agricultural Insurance Scheme was introduced from the Rabi season of 1999-2000 to provide insurance coverage in the event of a failure of notified crops as a result of natural calamities, pestilence and diseases, and to encourage farmers to adopt progressive farming practices, high value inputs, higher technology and stabilize farm incomes. The scheme, it has been stated, envisages coverage of all food crops, oilseeds and annual commercial/horticultural crops, in respect of which past yield data is available. Eleven crops have been notified among annual commercial/horticultural crops. The scheme is stated to be implemented by 23 States, including State of Maharashtra, and the coverage between

the years 1999-2004 was of 589 lakh farmers. Government of India has constituted a Joint Group on Crop Insurance to suggest modifications of the scheme and the recommendations made by the Group are under consideration.

19. In so far as Minimum Support Prices are concerned, it has been stated that these prices for major agricultural commodities are recommended to Government by the Commission for Agricultural Costs and Prices (CACP) by evolving a “balanced and integrated price structure” taking into account the overall needs of the economy and with due regard to the interests of producers and consumers. While formulating its recommendations, the Commission, it is stated, analyses a wide spectrum of data, covering the cost of cultivation/production, trend and spread of input use, production and productivity of the crops concerned, domestic and global prices, inter-crop price parity, emerging supply demand situation, procurement and distribution, and terms of trade between agricultural and non-agricultural sectors. The Minimum Support Price sets a benchmark so that whenever market prices of a commodity go below this level, the agencies of the Central Government intervene and procure the commodity at the Minimum Support Price.

The intent thereof is to protect farmers from exploitation at the hands of private agencies who may force them to distress selling. The affidavit filed by Government of India notes that the argument in favour of regional prices is based on the high costs of production in less developed areas or regions. The position of the Government of India, however, is to the following effect:

“In this context, I may be permitted to state that uniform support price for the whole country is justified on the ground that it can alone lead to efficient utilization of resources by encouraging greater investment and production in relatively low cost areas due to a higher margin of profit. By the same logic, a uniform Minimum Support Price (MSP) also discourages production in high cost area. Different prices for different States were tried out during 1965 to 1972 but given up due to difficulties in the implementation.”

The Government of India constituted a National Commission on Farmers under the Chairmanship of Dr.M. S. Swaminathan, which is now reported to have submitted its findings.

20. The State Government has, during the course of these proceedings, placed on record that the Amravati Division comprising of five districts, namely, Amravati, Yavatmal, Akola, Buldhana and Washim registered a high incidence of farmers' suicides consistently in the last

five years. Wardha District from the Nagpur Division has also recorded a high incidence. 75% of the suicides committed by the farmers in the last 5 years are from these six districts. The study conducted by the Indira Gandhi Institute of Development Research at the behest of the State Government reveals that the decision taken by a cultivator to end his life is a result of a combination of factors that a farmer has to confront simultaneously. The major reasons are: (i) Agricultural indebtedness; (ii) Crop failure and low returns; (iii) Illness of a member of the family; (iv) Inability to arrange finance for the marriage of a daughter; (v) A lack of income earning opportunities from subsidiary occupations; and (vi) Inadequate facility for value addition to agricultural produce.

21. The State Government has come out with a comprehensive package that aims to (i) Release farmers from the clutches of unscrupulous money lenders; (ii) Put an end to indebtedness; (iii) Arrange for capital from Banks to improve farm productivity; (iv) Bring desirable changes in cropping patterns; (v) Encourage organic farming; (vi) Encourage measures to reduce the cost of cultivation; (vii) Provide financial assistance to and encourage community marriages with the

help of social organizations; and (viii) Encourage value addition by supporting co-operative processing units. A copy thereof was placed before this Court by the Learned Associate Advocate General. The following measures have been taken:

21.1 **Measures to alleviate Indebtedness.**

- * Farmers would not be required to repay loans and interest thereon advanced by non-licensed money lenders;
- * Wherever an input dealer has provided inputs like seeds, fertilizers and pesticides on credit, interest would be allowed to be charged at the rate at which the concerned District Central Co-operative Bank gives crop loans to farmers;
- * All outstanding crop loans upto a limit of Rs.25,000 will be rescheduled in these districts;
- * The interest on these outstanding loans will be written off and Government will pay Rs.61 crores to the concerned Co-operative Banks for this purpose;
- * The principal amount of Rs. 203 crores will be rescheduled over a period of the next five years. There will be a moratorium on repayment for the first two years and then the principal will have to

be paid in three equal instalments;

- * The rescheduled loans will bear an interest of 9%. The difference between the original rate of interest and 9% will be paid by Government;
- * If such loan is paid as and when due, there will be an interest concession of 4% which means that farmers would be charged only 5% for the rescheduled loans if payment is made in time;
- * If any farmer is willing to pay during the moratorium period, he will get a further interest concession of 2% which means that he will have to pay interest at the rate of 3% ;
- * The concession would be applicable to crop loans outstanding in the names of farmers for loans taken from cooperative as well as nationalized Banks.

21.2 Arrangements have been made for the issuance of fresh crop loans which are as follows :

- * Once the outstanding loans are rescheduled, farmers would become eligible for a fresh loan;
- * All farmers (big and small) will be eligible for a credit limit of

Rs.25,000/- from Banks through Kissan Credit Cards at the rate of 9%. The difference between 9% and the actual bank rate, if any, will be borne by the Government;

- * Farmers would be free to draw from this limit any amount at any time as per their requirements and interest would be charged only on that amount and only from that moment and not on the whole amount for the whole period;
- * If such loans are repaid in time, a farmer would get interest concession of 4% which means that he will have to pay interest at the rate of 5% only;
- * For this loan, farmers would not be required to give collateral security;

21.3 The other components of the package are as follows.

(a) **Disbursing crop loans through Farmers self-help Group.**

- * Looking into the success of loan disbursement, utilisation and recovery through self-help groups, the State Government shall encourage the formation of Farmers' Self-help Groups. They would be eligible to receive loans directly from branches of bank. A multi agency approach would be adopted to increase the

number of players, bring in competition and make crop loans available to farmers to the extent required at affordable interest rates;

- * No farmer who has taken a loan from Co-operative Bank would be required to pay interest more than the principal.

(b) Subsidy on Crop Insurance Premium

- * Cotton is the major crop in all the six districts with a high incidence of suicides;
- * Cotton is included in the current comprehensive crop insurance scheme of the Government of India with a premium rate of more than 6%. In Vidarbha, cotton is primarily a rainfed crop with low productivity;
- * To ensure coverage for crop loans and thereby maintain continued eligibility for farmers for the next season, Government shall give a subsidy on the insurance premium on crops grown in this region;
- * 75% of the insurance premium for small and marginal cotton farmers would be paid by Government as subsidy. For other farmers, the subsidy premium would be 50%;
- * For other crops, 50% of the premium will be paid by the

Government for small and marginal farmers;

- * This would involve an expenditure of Rs. 25 crores and ten lakh farmers are expected to benefit from this.

(c) Financial assistance to farmers for enhancing production and productivity.

- * In the next three years, 60,000 farmers from these six districts (economically weak category) will be given financial assistance to the extent of Rs.25,000 to enable them to undertake land development, in situ soil and moisture conservation, use of low cost inputs, quality seeds, bio-fertilizers, etc.;
- * For this, every year Government will make a provision of Rs. 50 crores.

(d) Encourage subsidiary occupations

- * Farmers' self-help groups would be given bank loans and Government subsidies to enable them to undertake subsidiary occupations like dairy development, poultry, sericulture, and small agro processing industries. Every year, 3000 farmers' self-help groups involving 60,000 farmers in these districts will be given financial assistance to the tune of Rs. 30 crores;
- * Every Self-Help Group will be given an assistance of Rs. 1 lakh for

this purpose.

(e) Promoting agro processing industry through co-operatives.

- * To ensure value addition to agriculture produce and improve net return to the farmer for his produce, cooperative agro processing industries would be encouraged in this region;
- * Government will pay share capital at the rate of 1:5 to encourage establishment of such industries on cooperative basis.

(f) Promoting joint farming in cotton

- * Cotton is a major crop of this region;
- * A number of varieties and hybrids with different staple lengths are produced today by farmers;
- * When marketed together, they do not fetch good prices due to lack of quality ;
- * If the textile mills come forward to buy cotton of specific staple strengths from farmers in a large number of villages, Government would encourage this arrangement so that textile mills get cotton of a desired variety and quality and are willing to pay a better price to the farmers in lieu thereof.

(g) Financial Assistance for Samudaik Lagna (Community Marriages)

- * Inability to arrange finances for marriageable daughters was seen as one of the reasons responsible for farmers committing suicide;
- * In Maharashtra, voluntary organisations encourage parents to arrange for marriages together in one place to minimise expenses. Government has decided to encourage such community marriages in the project region. Social organizations would be involved for educating farmers in this regard. A large number of marriages would be held together at one place on the same day and the expenses on account thereof would be borne by the Government. For this purpose, the Government will provide Rs. 1 crore to each district every year.

(h) Repayment of amount from capital formation fund

- * The Monopoly Cotton Procurement Scheme was implemented in Maharashtra for more than 30 years. Till 1994, the scheme did not incur losses. However, in the last ten years, the scheme incurred losses of Rs.5500 crores due to the introduction of the concept of paying an additional advance price. Government has stopped payment of the additional advance price from this year;
- * Cotton Marketing Federation will buy cotton at minimum price, process and sell the same. Profit, if any, would be paid back to the

farmers as bonus;

- * Under this scheme, Government was deducting 4% from the farmers' dues every year for a fund called 'capital formation fund' and was paying 12% interest to the farmers on this fund. Now since this scheme has been diluted, the Government has taken a decision to repay the principal and interest due thereon back to the farmers. This would amount to Rs. 769 crores. Government has agreed announced to pay Rs. 350 crores before 31.3.2006 and the balance in a 2nd installment in the next financial year.

(i) Financial assistance to cotton farmers.

- * This year the State had to face the scourge of excessive rain on one side and drought on the other. In some places, Bt Cotton seeds proved to be spurious causing economic loss to the farmers. The cotton farmers a majority of whom come from Marathwada and Vidarbha were hard hit. To give them some financial assistance, the Government would provide Rs. 1000 per hectares for a maximum of 2 hectares to about 22 lakh farmers. This will involve an expenditure of Rs. 280 crores.

(j) Technology Mission on Organic Farming

- * The entire cotton crop being rainfed, there is a limit beyond which

yield cannot be enhanced. The cost of cultivation, however, goes up every year due to an increase in the cost of inputs. The small and marginal farmers are hard hit in this process. Their margins from the cotton crop go down or even become negative at times. Reducing the cost of cultivation for the same productivity level is, therefore, essential to increase the margin for farmers;

- * At the moment, cotton produced through organic farming is in high demand and fetches a better price in the market. The cost of cultivation is low. The suicide prone districts have a very large area under the cotton crop. Government has, therefore, decided to promote organic cultivation through a technology mission on organic farming. For this purpose, every year there will be a plan allocation of Rs. 5 crores for each district;

(k) Special Study of Yavatmal District

- * The incidence of farmers' suicide has been abnormally high in Yavatmal consistently for the last five years. It is essential to analyse the reasons thereof in greater detail and take into account economic, social and psychological factors while carrying out such an analysis. Government, therefore, has decided to constitute a Study Group under the Gokhale Institute of Economics & Politics,

Pune. NGOs' representatives and organic farming experts would be members of this Committee.

(l) Vidarbha Watershed Mission

- * The pilot districts fall in the assured rainfall region but there are not many irrigation structures to harness water for the benefit of farmers;
- * Arresting surface flow through small water harvesting structures would enhance ground water level in this region thereby improving the potential for ground water irrigation;
- * Use of this water economically would help increase irrigation coverage and agriculture production;
- * Government has decided to implement a comprehensive integrated soil and water conservation project called “Vidarbha Watershed Mission” and tackle suitable watersheds in this region for all round development;
- * For this purpose, every year Rs. 100 crores will be provided.

(m) Creating a Special Cell in the Collector's office with a facility of a helpline.

- * In order to reach farmers in distress, arrange for counselling and do the needful which would dissuade the farmer from taking the

extreme decision of committing suicide ,a Special Cell will be opened in every Collectorate with a facility of a helpline. The Revenue Authority would help the Agriculture Extension Staff in those areas where instances of such suicides are happening more frequently;

- * Reaching such areas immediately, identifying reasons that are causing distress to farmers, taking help of psychologists and NGOs and taking other identified measures that results in such incidents would be the responsibility of this Cell in the Collector's office. For this, the Government will make a provision of Rs. 1 crore;
- * To ensure that the comprehensive package announced by Government is implemented in letter and spirit with the cooperation, involvement and participation of all concerned; that progress under different schemes of the package is reviewed and monitored regularly and corrective measures, if any, are taken in time, Government will nominate an IAS Officer in the super time scale and designate him as Director General of the Scheme.

We expect that these measures shall now be adopted and implemented

with vigour and expedition. This should not remain an ornate scheme, impressive on paper but deficient in implementation. The State shall take all measures to ensure that benefits reach those for whom they are intended.

22. We have entertained this petition as a litigation filed in the public interest since the issues which are raised are of a profound and seminal nature. Agriculture is a source of livelihood for an overwhelming part of our society. The occurrence of suicide on such a large scale by cultivators of the soil raises constitutional questions that travel beyond an emotive appeal. The Constitution guarantees the right to life and to personal liberty. The values which underlie Article 21 of the Constitution are seriously eroded by deaths on such a systemic scale, as the facts before the Court in relation to the State of Maharashtra demonstrate. The social existence of the cultivator and his economic survival are regulated by several important decisions which the State and its regulatory agencies adopt. The suicides that have occurred are as much due to the failure of social and economic development to reach the poor, the landless and those on the margins of existence as it is due to natural calamities. The consequences of

natural causes become stark when development policy does not provide safety nets and buffers to absorb them. Legislation enacted by the State on matters as diverse as land reforms, agricultural indebtedness, consolidation and prevention of the fragmentation of holdings and remunerative prices that enable farmers to meet the cost of cultivation, has a fundamental bearing on both the existence and quality of the life of the rural populace. Hence, the maintainability of these proceedings and the constitutional foundation for the invocation of the jurisdiction of the Court cannot be questioned. The foundation is the right to life under Article 21.

23. The Directive Principles of State Policy are replete with references to economic, social and cultural values which reflect a deep and abiding concern of the founding fathers of the Constitution towards securing justice in all respects, social economic and political for the agricultural sector. Article 38 postulates that the State is obligated to strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all institutions of national life. Article 39 recognises the importance of the right to an adequate means of

livelihood; the distribution of material resources in a manner that would subserve the common good; and of the operation of the economic system in a manner which does not result in the concentration of wealth and the means of production to the common detriment. The making of effective provisions for securing the right to work, to public assistance in cases of unemployment and in other cases of undeserved want is recognised by Article 41. All workers, agricultural, industrial or otherwise are entitled to a living wage and to conditions ensuring a decent standard of life. The importance of cottage industry constituted on an individual or a co-operative basis in rural areas finds recognition in Article 43. A significant part of the agricultural population consists of Scheduled Castes and Scheduled Tribes and the protection of these communities from social injustice and all forms of exploitation finds recognition in Article 46. Raising levels of nutrition and standards of living is an important value enshrined in Article 47. Under Article 48, the State has to endeavour to organise agriculture and animal husbandry on modern and scientific lines. Finally, the environment upon the sanctity of which agriculture depends finds recognition in Article 48-A and Article 51-A (g).

24. We have emphasised these provisions, conscious we are, that the Directive Principles, though fundamental in the governance of the country, are not enforceable by a Court of Law. While considering the ambit of the constitutional value placed upon the right to life and personal liberty, the Court must embark upon a harmonious construction between Part-III and Part IV for, it is the Directive Principles of State Policy that animate and give substance to the fundamental rights contained in Part-III. Modern Constitutional jurisprudence recognises that there is no antithesis between economic, social and cultural rights on the one hand and civil and political rights on the other. One set of human rights cannot exist without the other. Civil and political rights can only flourish in a Society which is free of undeserved want and poverty. Suicidal deaths of cultivators on such a large and systemic scale, therefore, constitute a matter of the highest concern, both for the judicial wing and for the executive.

25. The extent to which civil society protects basic human freedom has been regarded as an index of development. Prof. Amartya Sen in his Seminal treatise entitled "India Development and Participation" (with Jean Dreze) and "Development as Freedom" has

contributed significantly to the evolution of the discourse on the subject. The evolution of economic discourse in regarding development in terms of the protection of basic human rights and freedom must infuse the constitutional discourse as Courts expound and interpret the Constitution. The values which are enshrined in the Directive Principles of State Policy, must, therefore, infuse and guide the interpretation of the fundamental rights. Human rights of a civil and political nature on the one hand and human rights with an economic, social and cultural content on the other hand, are facets of one integrated doctrine. The object of these fundamental freedoms is to truly impart to the human personality all components of existence that make life meaningful. That is the mandate of Article 21. The Court which interprets the Constitution must regard the achievement of basic human freedoms having an economic, social and cultural context as being as important as the protection of civil and political freedom. It is only when both sets of human rights are realised, that an integrated human personality can exist. It is only when both sets of human rights are realised, that society can exist as a cohesive and stable whole.

26. At the same time, while this Court discharges its obligation of

interpreting and expounding upon constitutional precepts, it is necessary not to transgress upon those areas that are left by the Constitution to the other organs of the State. The doctrine of separation of powers requires that matters of legislation and issues of defining policy be left to the executive. By a long line of precedent it is now well settled that price fixation is essentially a part of the legislative function. Hence, it has been held that principles of natural justice would not be attracted to such an activity which has a legislative flavour. Equally, it would be impermissible for the Court to issue any directions in the nature of mandamus commanding the executive, as the delegate of the legislature, to determine prices of a particular order or nature. Hence we have to reject the request which was made on behalf of the Petitioner to the effect that this Court should issue directions in regard to the fixation of Minimum Support Prices.

27. In **Union of India vs. Cynamide India Ltd.**, AIR 1987 SC 1802, Mr. Justice O.Chinnappa Reddy speaking for a Bench of two Learned Judges of the Supreme Court emphasised that price fixation had essentially a legislative character :

“Price fixation is neither the function nor the force of the

Court. We concern ourselves neither with the policy nor with the rates. But we do not totally deny ourselves the jurisdiction to enquire into the question, in appropriate proceedings, whether relevant considerations have gone in and irrelevant considerations kept out of the determination of the price. For example, if the legislature has decreed the pricing policy and prescribed the factors which should guide the determination of the price, we will, if necessary, enquire into the question whether the policy and the factors are present to the mind of the authorities specifying the price. But our examination will stop there. We will go no further. We will not deluge ourselves with more facts and figures. The assembling of the raw materials and the mechanics of price fixation are the concern of the executive and we leave it to them. And we will not reevaluate the considerations even if the prices are demonstrably injurious to some manufacturers or producers. The Court will, of course, examine if there is any hostile discrimination. That is a different 'cup of tea' altogether.”

In **Saraswati Industrial Syndicate Ltd. v. Union of India**, AIR 1975 SC 460, the Supreme Court held that “price fixation is more in the nature of a legislative measure even though it may be based upon objective criteria found in a report or other material”. In **Prag Ice and Oil Mills vs. Union of India**, AIR 1978 SC 1296, a Bench of seven Learned Judges of the Supreme Court revisited the issue and held as follows:

“In the ultimate analysis the mechanics of price fixation has necessarily to be left to the judgment of the Executive and unless it is patent that there is hostile

discrimination against a class of operators, the processual basis of price fixation has to be accepted in the generality of cases as valid.”

In **Shri Sitaram Sugar Co. Ltd. vs. Union of India**, AIR 1990 SC 1277, a Constitution Bench of the Supreme Court laid down the following principle in regard to judicial review on matters of economic policy and more particularly on price fixation. The observations of the Court were as follows :

“Judicial review is not concerned with matters of economic policy. The Court does not substitute its judgment for that of the legislature or its agents as to matters within the province of either. The Court does not supplant the “feel of the expert” by its own views. When the legislature acts within the sphere of its authority and delegates power to an agent, it may empower the agent to make findings of fact which are conclusive provided such findings satisfy the test of reasonableness. In all such cases, judicial inquiry is confined to the question whether the findings of fact are reasonably based on evidence and whether such findings are consistent with the laws of the land. As stated by Jagannatha Shetty, J. in *Gupta Sugart Works* (AIR 1987 SC 2351 at p. 2352) (supra):

“The Court does not act like a chartered accountant nor acts like an income tax officer. The Court is not concerned with any individual case or any particular problem. The court only examines whether the price determined was with due regard to considerations provided by the statute. And whether extraneous matters have been excluded from determination.”

58. Price fixation is not within the province of the courts. Judicial function in respect of such matters is exhausted when there is found to be a rational basis for the conclusions reached by the concerned authority. As stated by Justice Cardozo in *Mississippi Valley Barge Line Company v. United States of America* (1933) 292 US 282-290: 78 Law ed 1260, 1265:

“The structure of a rate schedule calls in peculiar measure for the use of that enlightened judgment which the Commission by training and experience is qualified to form It is not the province of a court to absorb this function to itself ... The judicial function is exhausted when there is found to be a rational basis for the conclusions approved by the administrative body.”

28. We have, in the course of this judgment, highlighted the injustice that has been perceived in a particular pattern of fixing minimum support prices but beyond setting out the factual elaboration contained in the report of the Tata Institute of Social Sciences, we do not consider it either within our province or jurisdiction to issue directions to the Central Government in this regard. These are matters where in a democratic polity founded on the rule of law and a separation of powers, the Union of India is undoubtedly seized of the seriousness of the issue. There is no reason to assume that the Union Government

will not take an appropriate decision in accordance with law. Conflicting claims and equities have to be balanced by the Central Government and in such matters it is best for Courts to leave decisions on price fixation to the authority to whom the power to do so is vested under the law.

29. During the course of these proceedings, wide ranging interim directions have been issued from time to time by this Court. In a Public Interest Litigation, the effort of the Court is not to supplant the executive but to ensure, when there is inaction or lethargy in the decision making process, that the State and its agencies react to a problem by taking steps with alacrity. In the present case, one of the most immediate steps that was required to be taken was to provide for immediate relief and rehabilitation for the families of cultivators who have committed suicide due to causes such as agricultural indebtedness. Identification of such families, investigation of the causes of suicide and a prompt disbursement of compensation is the mandate of social justice. The process of identification has been lethargic, bordering on apathy. Causes of suicide are suppressed by the official machinery. The real causes are often camouflaged. The report of the Tata Institute of Social Sciences

(TISS) has suggested that a Committee comprising of eminent persons or representatives from institutions, activists and voluntary organizations should be set up under the aegis of the Court. The report suggests the inclusion of a High Level Governmental nominee. The State Government has responded to the drift of the interim directions issued by this Court by now constituting District Level Committees which would investigate into the causes of suicide by farmers and take appropriate decisions on the disbursal of relief within a period of 15 days of the occurrence of incidents. The State government broadened the original criteria and agreed to reconsider all those cases where suicides had occurred after 1st January, 2001 on the part of agriculturists including 414 cases which had initially been found to be ineligible. We direct that the Committees be made functional forthwith. The State shall carefully monitor their functioning to ensure that the salutary object for which they are set up is fulfilled. We also direct that the State Government shall ensure that correct and complete lists of agriculturists who have been compelled by the force of circumstances to commit suicide should be compiled and updated with all expedition. The material before the Court shows that suicides by farmers are often not clearly registered and investigated. This situation must be remedied by the State Government

by issuing necessary directions at an administrative level. We order accordingly.

30. Another area which warrants immediate attention is for the State to revisit the extension work that is being carried out in the field of agriculture. The State Government must devise a comprehensive action plan to revamp the set up of its extension activities, to widen the information base and to provide for training to those associate with extension work. The State may consider creating an information network by which information can be accessed through e-networks, similar to e-chaupals. The propagation of an alternative low cost organic or natural farming system through a strong network of voluntaries bodies, activists and farmers' organizations is again a suggestion which must be considered by the State government in all earnestness so that steps can be taken towards the implementation thereof.

31. Both the Central and the State Governments must address themselves to the pressing need for a comprehensive decision to create an insurance safety net that covers the assurance of a minimum life support system for cultivators and the production system as a whole.

For millions of farmers, there are no clear livelihood options in the non-farm sector. Ultimately, therefore, it would be for the State and the Central Governments to devise appropriate policies that would support cultivation by enabling farmers to meet the cost of cultivation and to stay out of the debilitating effects of indebtedness. Efforts would have to be made to ensure that credit facilities from the organised sector are available with functional ease and expedition and at rates which do not lead the farmer into the more vicious circle of approaching village moneylenders.

32. These are some of the suggestions which, in our view, should merit appropriate consideration by the State and the Centre. The State Government must take a final decision on whether the compensation that has been fixed at an amount of Rs. One lakh should now be suitably enhanced to ensure that a more realistic amount is made available to the members of the family of a deceased cultivator for whom the occurrence of a suicide threatens to disrupt the life of the family and the social fabric that underlies ordered existence.

33. With these observations, we dispose of the petition. We

record our appreciation for the able assistance that we have received in these proceedings from the Tata Institute of Social Sciences, the District Judges who have submitted the report before the Court, the interveners, the parties and counsel.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD,J.